4434/06
Presented by Shri D.P. Dubey
dated 14/8/06

SINGLE BENCH (3)

CF 1002 28.6.1997

IN THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.(C) 4393 /2006

PETITIONER : **Gulab Chandra Pandey, son of Late Shri Hriday Narayan Pandey, aged 76 years, R/o. Juna Bilaspur, District Bilaspur (C.G.)**

VERSUS

RESPONDENTS :

1. **State of Chhattisgarh Through Collector Bilaspur**
2. **Municipal Corporation, Bilaspur Through Commissioner, Municipal Council, Bilaspur**
3. **Tehsildar, Bilaspur**
4. **Sub Divisional Officer, Bilaspur**
5. **Collector, Bilaspur**

Rina 14/08/06
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WRIT PETITION UNDER ARTICLE 226 & 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF AN APPROPRIATE WRIT IN THE NATURE OF MANDAMUS / CERTIORARI ETC OR DIRECTION (S) / ORDER(S) IN THE LIKE NATURE ETC.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(156)

आदेश पत्रक

मामला क्रमांक ....WP 4393/06.... **सन्** **200**

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	11-09-2006 Dr. N.K. Shukla, Sr. Advocate with Ku. Ritu Mishra, learned counsel for the petitioner. Shri N.K. Agrawal, learned Dy. Advocate General for the State/ respondents No.1, 3, 4 & 5. Shri A.S. Kachhawaha, learned counsel for respondent No.2 – Municipal Corporation, Bilaspur. Heard. The submission of Dr. Shukla is that a proceeding under Section 248 of the M.P. (C.G.) Land Revenue Code, 1959 (for short "the Code") is pending before the Tehsildar, Bilaspur, vide encroachment case No.20-A/68/2005-06 and there is also an order of this Court in earlier writ petition No.1197 of 2006 (***Gulab Chandra Pandev vs. State of Chhattisgarh & Others***) by making observations that no demolition etc. shall take place before passing of an order in the proceedings under Section 248 of the Code, even then, the authorities of respondent No.2 are trying to demolish the superstructure of the petitioner, which is standing on his private land bearing Khasra No.561/2.	

(पीछे देखिये)

XI-HC-22

(157)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ...WP 4393/06... सन् **200**

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Shri Kachhawaha, learned counsel for respondent No.2, submits that the Corporation has not demolished any superstructure said to have been raised by the petitioner in Khasra No.561/2 and a decision from the Court of Tehsildar is awaited. However, looking to the apprehension raised by the counsel for the petitioner, which he is pressing very hard, learned counsel for respondent No.2 submits that he is ready to give undertaking that no demolition etc. shall take place unless the proceedings under Section 248 of the Code are completed before the Tehsildar and an order of that nature is passed in the said matter. His submission is that the petition may be disposed of with this undertaking, which will satisfy the ground, for the time being, raised by the petitioner.

The earlier order passed by this Court in the case of ***Gulab Chandra Pandev*** (supra), almost in similar circumstances, has been placed on record vide Annexure-P/12. The operative part of the said order is quoted as under :

> *"So far as apprehension of demolition is concerned, no such documents have been filed before me to show any such action proposed to be taken against the petitioner. However, it is expected and observed that when a proceeding has already been drawn by the authority under the statutory provisions, the statutory authority as well*

छे देखिये)

XI-HC-22

(158)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 4393/06 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

as other concerned government authorities including the respondents would respect the provisions of law and would certainly wait for the decision which shall ultimately be rendered by the Tehsildar after due enquiry under Section 248 of the Land Revenue Code and shall not step into forceful demolition by a process unknown to law.

With the aforesaid observation, the petition stands disposed of at the motion stage with liberty to the petitioner to appear before the concerned Tehsildar and raise his objections which shall be decided in accordance with law under Section 248 of the Land Revenue Code."

In view of the aforesaid order and also in view of the pendency of the proceedings before the concerned Tehsildar and further in view of the undertaking given by the counsel for the Corporation that they are not going to take any coercive steps unless the orders are passed by the Court of Tehsildar, this petition is disposed of at this stage with the observations that in view of the undertaking given by the counsel for the Corporation no demolition shall take place unless the final orders in the proceedings under Section 248 of the Code are passed and the further steps shall be subject to the said order.

Accordingly, the petition stands finally disposed of on the terms referred to above.

Sd/-
Sunil Kumar Sinha
Judge

(पीछे देखिये)

14.9.06 18-9-06